

Executive Summary – Enforcement Matter – Case No. 42978
Momentum Investment, Inc. dba Angels Gas & Grocery
RN102011566
Docket No. 2011-2124-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Angels Gas & Grocery, 2928 Farm-to-Market Road 565 North, Mont Belvieu, Chambers County

Type of Operation:

Convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: April 6, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$34,850

Amount Deferred for Expedited Settlement: \$6,970

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$880

Total Due to General Revenue: \$27,000

Payment Plan: 34 payments of \$790 each and 1 payment of \$140

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Poor

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 42978
Momentum Investment, Inc. dba Angels Gas & Grocery
RN102011566
Docket No. 2011-2124-PST-E

Investigation Information

Complaint Date(s): September 12, 2011

Complaint Information: Alleged a gas leak from the Respondent's location.

Date(s) of Investigation: September 14, 2011

Date(s) of NOE(s): October 28, 2011

Violation Information

1. Failed to monitor underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].
2. Failed to provide a release detection method for the USTs by failing to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].
3. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1)].
4. Failed to report a suspected release to the TCEQ within 24 hours of the discovery. Specifically, the Respondent received an invalid test result on the July 25, 2011 automatic tank gauge ("ATG") leak test which was not reported [30 TEX. ADMIN. CODE § 334.72(3)].
5. Failed to investigate a suspected release within 30 days of discovery. Specifically, the Respondent received an invalid test result on the July 25, 2011 ATG leak test which was not investigated [30 TEX. ADMIN. CODE § 334.74].
6. Failed to prevent an unauthorized release of petroleum substance from the UST system. Specifically, petroleum product was found in groundwater samples collected from a monitoring well on September 14, 2011 [30 TEX. ADMIN. CODE § 334.48(a) and TEX. WATER CODE § 26.121].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures at the Facility:

- a. Investigated and confirmed the suspected release and repaired a leaking pipe on September 20, 2011; and

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Momentum Investment, Inc. dba Angels Gas & Grocery
RN102011566
Docket No. 2011-2124-PST-E

b. Submitted a release determination report to the TCEQ Remediation Division on October 5, 2011 summarizing the initial abatement steps taken and was issued the leaking petroleum storage tank identification no. 118666.

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, begin conducting effective manual or automatic inventory control procedures for all USTs at the Facility;
- b. Within 30 days:
 - i. Implement a release detection method for all USTs including volume measurement and reconciliation of inventory control records;
 - ii. Establish and implement a process for reporting suspected releases;
- c. Within 90 days, submit a complete Assessment Report Form; and
- d. Within 105 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Rebecca Boyett, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2503; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Sam Karim, General Manager, Momentum Investment, Inc., P.O. Box 2467, Sugar Land, Texas 77487
Rasheed Ali, President, Momentum Investment, Inc., P.O. Box 2467, Sugar Land, Texas 77487
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	31-Oct-2011	Screening	13-Nov-2011	EPA Due	
	PCW	16-Nov-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Momentum Investment, Inc. dba Angels Gas & Grocery		
Reg. Ent. Ref. No.	RN102011566		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	42978	No. of Violations	2
Docket No.	2011-2124-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Philip Aldridge
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$22,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **20.0%** Enhancement **Subtotals 2, 3, & 7** **\$4,500**

Notes Enhancement for one order with denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$7,055
Approx. Cost of Compliance \$101,500
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$27,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$27,000**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$27,000**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$5,400**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$21,600**

Screening Date 13-Nov-2011

Docket No. 2011-2124-PST-E

PCW

Respondent Momentum Investment, Inc. dba Angels Gas & Grocery

Policy Revision 3 (September 2011)

Case ID No. 42978

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102011566

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Philip Aldridge

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 13-Nov-2011

Docket No. 2011-2124-PST-E

PCW

Respondent Momentum Investment, Inc. dba Angels Gas & Grocery

Policy Revision 3 (September 2011)

Case ID No. 42978

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102011566

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Phillip Aldridge

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I) and Tex. Water Code § 26.3475(c)(1)

Violation Description

Failed to monitor underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).
 Failed to provide a release detection method for the USTs by failing to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release			
Actual			
Potential	x		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

60 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One quarterly event is recommended from the September 14, 2011 investigation date to the November 13, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x (mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$69

Violation Final Penalty Total \$9,000

This violation Final Assessed Penalty (adjusted for limits) \$9,000

Economic Benefit Worksheet

Respondent Momentum Investment, Inc. dba Angels Gas & Grocery

Case ID No. 42978

Reg. Ent. Reference No. RN102011566

Media Petroleum Storage Tank

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	14-Sep-2011	15-Aug-2012	0.92	\$69	n/a	\$69

Notes for DELAYED costs

Estimated cost to monitor the USTs for releases including volume measurement and monthly reconciliation of inventory control records. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$69

Screening Date 13-Nov-2011

Docket No. 2011-2124-PST-E

PCW

Respondent Momentum Investment, Inc. dba Angels Gas & Grocery

Policy Revision 3 (September 2011)

Case ID No. 42978

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102011566

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Philip Aldridge

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.48(a) and Tex. Water Code § 26.121

Violation Description

Failed to prevent an unauthorized release of petroleum substance from the UST system. Specifically, petroleum product was found in groundwater samples collected from a monitoring well on September 14, 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 2

60 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Two monthly events are recommended from the September 14, 2011 investigation date to the November 13, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6,986

Violation Final Penalty Total \$18,000

This violation Final Assessed Penalty (adjusted for limits) \$18,000

Economic Benefit Worksheet

Respondent Momentum Investment, Inc. dba Angels Gas & Grocery
 Case ID No. 42978
 Reg. Ent. Reference No. RN102011566
 Media Petroleum Storage Tank
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$50,000	14-Sep-2011	12-Nov-2012	1.16	\$194	\$3,881	\$4,075
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$50,000	14-Sep-2011	12-Nov-2012	1.16	\$2,911	n/a	\$2,911
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain engineering services and properly remediate the soil and groundwater. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100,000

TOTAL

\$6,986



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	31-Oct-2011	Screening	13-Nov-2011	EPA Due	
	PCW	16-Nov-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Momentum Investment, Inc. dba Angels Gas & Grocery		
Reg. Ent. Ref. No.	RN102011566		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	42978	No. of Violations	2
Docket No.	2011-2124-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Boyett
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	20.0% Enhancement	Subtotals 2, 3, & 7	\$1,500
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Notes: Enhancement for one order with denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$1,250
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$105
Approx. Cost of Compliance \$1,600
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	1.3%	Adjustment	\$100
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with violation no. 1.

Final Penalty Amount	\$7,850
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,850
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,570
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$6,280
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Screening Date 13-Nov-2011

Docket No. 2011-2124-PST-E

PCW

Respondent Momentum Investment, Inc. dba Angels Gas & Grocery

Policy Revision 2 (September 2002)

Case ID No. 42978

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102011566

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 13-Nov-2011

Docket No. 2011-2124-PST-E

PCW

Respondent Momentum Investment, Inc. dba Angels Gas & Grocery

Policy Revision 2 (September 2002)

Case ID No. 42978

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102011566

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.72(3)

Violation Description

Failed to report a suspected release to the TCEQ within 24 hours of the discovery. Specifically, the Respondent received an invalid test result on the July 25, 2011 automatic tank gauge ("ATG") leak test which was not reported.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$100

Violation Final Penalty Total \$3,039

This violation Final Assessed Penalty (adjusted for limits) \$3,039

Economic Benefit Worksheet

Respondent Momentum Investment, Inc. dba Angels Gas & Grocery
Case ID No. 42978
Reg. Ent. Reference No. RN102011566
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	25-Jul-2011	26-Jul-2011	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to report a suspected release. The Date Required is the date of the suspected release and the Final Date is the date the report was due.

Approx. Cost of Compliance \$100

TOTAL \$100

Screening Date 13-Nov-2011

Docket No. 2011-2124-PST-E

PCW

Respondent Momentum Investment, Inc. dba Angels Gas & Grocery

Policy Revision 2 (September 2002)

Case ID No. 42978

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102011566

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.74

Violation Description

Failed to investigate a suspected release within 30 days of discovery. Specifically, the Respondent received an invalid test result on the July 25, 2011 ATG leak test which was not investigated.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of the human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1

28

Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

One monthly event is recommended from the release investigation due date of August 25, 2011 to the September 22, 2011 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

(mark with x)

Notes

The respondent came into compliance on September 20, 2011, prior to the Notice of Enforcement dated October 28, 2011.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$4,811

This violation Final Assessed Penalty (adjusted for limits) \$4,811

Economic Benefit Worksheet

Respondent Momentum Investment, Inc. dba Angels Gas & Grocery
Case ID No. 42978
Reg. Ent. Reference No. RN102011566
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	25-Aug-2011	20-Sep-2011	0.07	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to investigate a suspected release. The Date Required is the date the release investigation was due and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$5

Compliance History

Customer/Respondent/Owner-Operator: CN600927966 Momentum Investment, Inc. Classification: AVERAGE Rating: 14.12
 Regulated Entity: RN102011566 Angels Gas & Grocery Classification: POOR Site Rating: 75.0
 ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 45486
 REGISTRATION
 Location: 2928 Farm-to-Market Road 565 North, Mont Belvieu, TX, 77580
 TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: November 07, 2011
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: November 07, 2006 to November 07, 2011
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Philip Aldridge Phone: (512) 239-0855

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator?
N/A
4. If Yes, who was/were the prior owner(s)/operator(s)?
N/A
5. When did the change(s) in owner or operator occur?
N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 02/08/2008

ADMINORDER 2004-1701-PST-E

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)
 30 TAC Chapter 334, SubChapter A 334.10(b)(1)(A)
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain records to demonstrate compliance with applicable requirements. Specifically, the respondent could not provide records demonstrating compliance with the corrosion protection testing requirements or records demonstrating Stage II testing conducted prior to the March 12, 2004 annual test.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(1)
 30 TAC Chapter 115, SubChapter C 115.245(2)
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to verify proper operation of the Stage II equipment at least once every twelve months by conducting compliance testing in accordance with the procedure found in the Vapor Recovery Test Procedures Handbook.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)
 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)
 30 TAC Chapter 334, SubChapter C 334.50(b)(2)(A)(i)(III)
 30 TAC Chapter 334, SubChapter C 334.50(b)(2)(A)(ii)

Description: Failure to monitor the underground storage tanks ("USTs") and associated piping for releases. Specifically, failure to have the line leak detectors tested once per year, and have each pressurized line tested or monitored for releases.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain the Stage II Vapor Recovery System in an operating condition that includes the installation of all components that are part of the approved system.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1

01/27/2009 (699557)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MOMENTUM INVESTMENT, INC.
DBA ANGELS GAS & GROCERY
RN102011566**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-2124-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Momentum Investment, Inc. dba Angels Gas & Grocery ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 2928 Farm-to-Market Road 565 North in Mont Belvieu, Chambers County, Texas (the "Facility").
2. The Respondent's four underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 2, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Thirty-Four Thousand Eight Hundred Fifty Dollars (\$34,850) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Hundred Eighty Dollars (\$880) of the administrative penalty and Six Thousand Nine Hundred Seventy Dollars (\$6,970) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Twenty-Seven Thousand Dollars (\$27,000) of the administrative penalty shall be payable in 34 monthly payments of Seven Hundred Ninety Dollars (\$790) each and one final payment of One Hundred Forty Dollars (\$140). The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Investigated and confirmed the suspected release and repaired a leaking pipe on September 20, 2011; and
 - b. Submitted a release determination report to the TCEQ Remediation Division on October 5, 2011 summarizing the initial abatement steps taken and was issued the leaking petroleum storage tank identification no. 118666.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on September 14, 2011.
2. Failed to provide a release detection method for the USTs by failing to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on September 14, 2011.
3. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on September 14, 2011.
4. Failed to report a suspected release to the TCEQ within 24 hours of the discovery, in violation of 30 TEX. ADMIN. CODE § 334.72(3), as documented during an investigation conducted on September 14, 2011. Specifically, the Respondent received an invalid test result on the July 25, 2011 automatic tank gauge ("ATG") leak test which was not reported.
5. Failed to investigate a suspected release within 30 days of discovery, in violation of 30 TEX. ADMIN. CODE § 334.74, as documented during an investigation conducted on September 14, 2011. Specifically, the Respondent received an invalid test result on the July 25, 2011 ATG leak test which was not investigated.
6. Failed to prevent an unauthorized release of petroleum substance from the UST system, in violation of 30 TEX. ADMIN. CODE § 334.48(a) and TEX. WATER CODE § 26.121, as documented during an investigation conducted on September 14, 2011. Specifically, petroleum product was found in groundwater samples collected from a monitoring well on September 14, 2011.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Momentum Investment, Inc. dba Angels Gas & Grocery, Docket No. 2011-2124-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Agreed Order, begin conducting effective manual or automatic inventory control procedures for all USTs at the Facility, in accordance with of 30 TEX. ADMIN. CODE § 334.48;
- b. Within 30 days after the effective date of this Agreed Order:
 - i. Implement a release detection method for all USTs including volume measurement and reconciliation of inventory control records, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - ii. Establish and implement a process for reporting suspected releases, in accordance with 30 TEX. ADMIN. CODE §§ 334.72 and 334.74;
- c. Within 90 days submit a complete Assessment Report Form, in accordance with 30 TEX. ADMIN. CODE § 334.80; and
- d. Within 105 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature

could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Momentum Investment, Inc. dba Angels Gas & Grocery
DOCKET NO. 2011-2124-PST-F
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Ramona J. ...
For the Executive Director

7/6/12
06-23-12
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Rasheed Ali
Signature

06-23-12
Date

RASHEED ALI
Name (Printed or typed)
Authorized Representative of
Momentum Investment, Inc. dba Angels Gas & Grocery

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.